

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**BRADELY COTTRELL, on behalf of the
ESTATE OF BERNARD DALE COTTRELL,**

Plaintiff,

v.

CIVIL ACTION NO. 2:18-cv-1281

**NATHAN SCOTT STEPP, Individually as a
member of the West Virginia State Police;
ZACH W. HARTLEY, Individually as a
member of the West Virginia State Police;
OKEY S. STARSICK, Individually as a
member of the West Virginia State Police;
ROBERT B. HICKMAN, Individually as a
member of the Roane County Sheriff's Department;
ROANE COUNTY SHERIFF'S DEPARTMENT;
and WEST VIRGINIA STATE POLICE,**

Defendants.

**DEFENDANTS TROOPER STEPP, TROOPER HARTLEY, FIRST SERGEANT
STARSICK, AND WEST VIRGINIA STATE POLICE'S MOTION TO DISMISS**

COME NOW, these Defendants, Nathan Scott Stepp, Zach W. Hartley, Okey S. Starsick, and West Virginia State Police, by counsel, Michael D. Mullins, James E. McDaniel, and the law firm of Steptoe & Johnson PLLC, pursuant to Rule 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, and hereby move this Honorable Court to dismiss portions of the Complaint against them over which the Court lacks jurisdiction or that fail to state a claim against them upon which relief can be granted. As set forth more fully in the Memorandum of Law in Support, the Court lacks subject-matter jurisdiction over the West Virginia State Police, and Plaintiff fails to state a claim upon which relief can be granted against the Defendants in Counts II, III, IV (in part), and VI. These portions of Plaintiffs' Complaint should be dismissed *with prejudice*.

**NATHAN SCOTT STEPP, ZACH W.
HARTLEY, OKEY S. STARSICK, and
WEST VIRGINIA STATE POLICE**

By counsel:

**STEPTOE & JOHNSON PLLC
Of Counsel**

/s/ Michael D. Mullins

Michael D. Mullins, Esquire [WVSB #7754]

James E. McDaniel, Esquire [WVSB #13020]

Chase Tower, 17th Floor

707 Virginia Street East

Post Office Box 1588

Charleston, WV 25326-1588

Telephone: 304-353-8000

Facsimile: 304-353-8180

Michael.Mullins@steptoe-johnson.com

Jim.McDaniel@steptoe-johnson.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**BRADELY COTTRELL, on behalf of the
ESTATE OF BERNARD DALE COTTRELL,**

Plaintiff,

v.

CIVIL ACTION NO. 2:18-cv-1281

**NATHAN SCOTT STEPP, Individually as a
member of the West Virginia State Police;
ZACH W. HARTLEY, Individually as a
member of the West Virginia State Police;
OKEY S. STARSICK, Individually as a
member of the West Virginia State Police;
ROBERT B. HICKMAN, Individually as a
member of the Roane County Sheriff's Department;
ROANE COUNTY SHERIFF'S DEPARTMENT;
and WEST VIRGINIA STATE POLICE,**

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of October, 2018, I filed the foregoing “**Defendants Trooper Stepp, Trooper Hartley, First Sergeant Starsick, and West Virginia State Police’s Motion to Dismiss**” by utilizing the CM/ECF system which will send electronic notification of said filing to counsel as listed below:

Russell A. Williams
Katz Kantor Stonestreet & Buckner
112 Capitol Street, Suite 100
Charleston, WV 25301
Counsel for Plaintiff

STEPTOE & JOHNSON PLLC
Of Counsel

/s/ Michael D. Mullins
Michael D. Mullins, Esquire [WVSB #7754]
James E. McDaniel, Esquire [WVSB #13020]
Chase Tower, 17th Floor
707 Virginia Street East
Post Office Box 1588
Charleston, WV 25326-1588
Telephone: 304-353-8000
Facsimile: 304-353-8180
Michael.Mullins@steptoe-johnson.com
Jim.McDaniel@steptoe-johnson.com